



Department of Defense INSTRUCTION

AD-A272 402



September 22, 1992
NUMBER 5240.4

IG, DoD and ASD(C3I)

SUBJECT: Reporting of Counterintelligence and Criminal Violations

References: (a) DoD Instruction 5240.4, "Reporting of Counterintelligence and Criminal Violations," June 22, 1987 (hereby canceled)
(b) Chapter 37 of Title 18, United States Code
(c) Section 783 of Title 50, United States Code

A. REISSUANCE AND PURPOSE

This Instruction reissues reference (a) to clarify the definition of significant incidents, provides procedures, and assigns responsibilities.

B. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense, and the Defense Agencies (hereafter referred to collectively as "the DoD Components").

C. DEFINITIONS

A significant incident includes any of the following:

1. Counterintelligence activities that are significant in and of themselves or that are likely to receive publicity.

2. Criminal cases involving:

a. Allegations of fraud or theft:

(1) With a potential loss to the Government of 500,000 dollars or more, or

(2) When the subject is:

(a) An installation or ship commander, or

(b) In or retired from the military grade O-6 and above or civilian GS/GM grade 15 and above, and the potential loss to the Government is 5,000 dollars or more.

b. Any criminal corruption case related to procurement involving current or retired DoD military or civilian personnel.

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c. Any investigation into defective products or product substitution in which a SERIOUS HAZARD to health, safety, or operational readiness is indicated, regardless of loss value.

d. Any criminal case, regardless of the allegation, which has received, is expected to receive, or which if disclosed could reasonably be expected to receive SIGNIFICANT media coverage.

3. Espionage. Conduct which is, or may be a violation of 18 U.S.C. 37 (reference (b)) or 50 U.S.C. 783 (reference (c)).

D. POLICY

It is DoD policy that significant counterintelligence activities, criminal cases, and instances of espionage shall be reported expeditiously through established channels to the Secretary of Defense.

E. PROCEDURES

This Instruction requires timely reporting to the Inspector General of the Department of Defense (IG, DoD) or the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence (ASD(C³I)) and the General Counsel of the Department of Defense (GC, DoD), of every significant criminal case, instance of espionage, and counterintelligence activity within the Department of Defense or involving a DoD contractor. Circumstances of individual cases shall govern the manner and timeliness of notification; telephonic or oral notification may be appropriate for highly significant and rapidly developing cases with written summaries to follow immediately.

F. RESPONSIBILITIES

1. The Inspector General of the Department of Defense shall serve as the focal point for receiving information and monitoring significant criminal cases, as defined in section C., above.

2. The Assistant Secretary of Defense (Command, Control, Communications, and Intelligence) shall serve as the focal point for receiving information and monitoring significant counterintelligence activities and instances of espionage as defined in section C., above.

3. The General Counsel of the Department of Defense shall receive information copies of reports of all significant criminal cases, counterintelligence activities, and instances of espionage, and advise the Secretary of Defense and other affected OSD Principal Staff Assistants, as appropriate.

4. The Heads of the DoD Components shall establish internal reporting procedures, appoint an official to receive reports on significant incidents, and transmit them either to the IG, DoD, or the ASD(C³I), with an information copy to the GC, DoD.


G. INFORMATION REQUIREMENTS

1. Reports addressed to the IG, DoD, shall be routed through the Assistant Inspector General for Investigations, Attn: Director for Criminal Policy and Oversight.
2. Reports addressed to the ASD(C³I) shall be routed through the Director of Counterintelligence.
3. Reports addressed to the GC, DoD, shall be routed through the Deputy General Counsel (Legal Counsel).
4. Reports shall include, as appropriate, the nature of the incident, a brief summary of known facts and circumstances, identification of the person or persons involved, a statement explaining why the incident is of such significance as to be of concern to the Department of Defense, the dollar amount of potential loss if known, and a brief summary of actions taken or intended.
5. Reports of espionage and counterintelligence activities shall include an appropriate statement addressing the nature and sensitivity of information involved.
6. Follow-up reports shall be submitted, as appropriate, to address significant developments, referrals to the other DoD Components or to another federal agency, or recommendations for any change in DoD policies. For significant criminal cases, follow-up reports shall be provided when indictments or convictions result from cases reported previously.
7. These reporting requirements are exempt from formal approval and licensing.

H. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward one copy of implementing documents to the Inspector General of the Department of Defense; the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence); and the Deputy General Counsel (Legal Counsel) within 120 days.


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Deputy Inspector General


Duane P. Andrews
Assistant Secretary of Defense
(Command, Control, Communications,
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